IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 11047 of 2007(M)

PETITIONER:

M/S.MALABAR SILKS AND SAREES (P) LTD,
M.M.ALI ROAD, CALICUT, REPRESENTED BY
K.P.VEERANKUTTY, DIRECTOR.

BY ADV. SRI.K.B.MOHAMMEDKUTTY (SR.)
SRI.K.M.FIROZ

RESPONDENTS:
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1. ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE - 1, COMMERCIAL TAXES,
KOZHIKODE.

2. THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE.

3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KOZHIKODE.

BY SR.G.P. SRI.MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 11047 OF 2007-M

JUDGMENT

The petitioner attacks Ext.P7 order. It is an interim order passed by the 2nd respondent appellate authority on Exts.P5 and P6 stay applications filed along with Exts.P3 and P4 appeals. The petitioner challenges the assessment of sales tax for the years 2000-01 and 2001-02 in those appeals. It attacks Ext.P7 on several grounds. It is submitted that the additions made on the ground of low turnover and low profit is unjustified. Other contentions are also raised. Going by the contentions, I feel that they are contentions which fall in the realm of disputed facts, which cannot be gone into by this Court under Article 226 of the Constitution of India. They are matters for the assessing authority to go into and take appropriate decision.

2. Having regard to the facts of the case, I feel that no ground has been made out, warranting interference with Ext,.P7. But, the petitioner is given time till 16.4.2007 to pay the 50% amount ordered to be paid under

Ext.P7 and one month's time from today to furnish the security.

Subject to the above direction, the Writ Petition is dismissed.

29th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/